



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

APR 3 2007

Charles Morse
Morse for Congress
258 Harvard Street, Suite 240
Brookline, MA 02446

RE: MUR 5527R

Dear Mr. Morse:

On March 21, 2007, the Federal Election Commission accepted the signed conciliation agreement submitted on your behalf in settlement of a violation of 2 U.S.C. §§ 434(a), 434(b) and 441d(c) and 11 C.F.R. §§ 104.1, 104.3, 104.5, 104.13, 110.11(c), and 104.18 provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Anita M. Bailey

Anita M. Bailey
Paralegal Specialist

Enclosure
Conciliation Agreement

27044162953

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Morse for Congress) MUR 5527R
Charles A. Morse, in his official)
capacity as treasurer)
)

CONCILIATION AGREEMENT

This matter was initiated with the Federal Election Commission ("Commission") by a signed, sworn, and notarized complaint by the Barney Frank for Congress Committee and pursuant to information ascertained in the normal course of carrying out the Commission's supervisory responsibilities. The Commission found reason to believe that Morse for Congress 2004 and Scott B. Mackenzie, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(a), 434(b) and 441d(c) and 11 C.F.R. §§ 104.1, 104.3, 104.5, 104.13, 110.11(c), and 104.18.¹

NOW, THEREFORE, the Commission and Morse for Congress and Charles A. Morse, in his official capacity as treasurer, ("Respondents" or "Committee"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

¹ The name of the Committee changed from "Morse for Congress 2004" to "Morse for Congress" on October 15, 2006. On December 1, 2006, Scott B. Mackenzie was replaced as treasurer by Charles A. Morse. The committee name and treasurer were changed accordingly throughout this agreement.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

Background

1. Morse for Congress is a political committee within the meaning of 2 U.S.C. § 431(4). It is the principal campaign committee of Charles Morse, an Independent candidate in the General Election for the 4th Congressional District of Massachusetts in 2004.

The Advertisement

2. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires political committees to disclose all disbursements, including itemizing all expenditures in excess of \$200. See 2 U.S.C. § 434(b)(5)(A); 11 C.F.R. § 104.3.

3. Non-monetary contributions must be reported as in-kind contributions. 2 U.S.C. § 434(b); 11 C.F.R. § 100.52(d)(1). In-kind contributions must be reported as both a contribution and a corresponding expenditure representing the consumption of the contribution. 11 C.F.R. § 104.13.

4. On October 16, 2003, the Respondents ran a quarter-page advertisement in The Boston Globe ("the Globe"), constituting 31.5 column inches. The advertisement responded to a previous column written by Representative Barney Frank and criticized Representative Frank's positions on the war in Iraq and the government's ability to pay for the rising costs associated with it. Below the content, a disclaimer stated "Paid for by www.morseforcongress.com." It also stated "Chuck Morse is . . . exploring a run for Congress."

5. The Globe charged Morse for Congress \$5,542.42 for the advertisement. The net cost of the advertisement was the usual and normal charge for a political advertisement in the Globe at that time.

6. Mr. Morse paid the Globe \$4,542.42 from the account of City Metro Enterprises (“CME”), which is a sole proprietorship owned by Mr. Morse.

7. Morse for Congress paid the Globe the remaining \$1,000 from its campaign treasury.

8. In its 2003 Year End filing, the Committee disclosed a \$3,000 disbursement to the Globe on October 7, 2003, for “advertisement” expenses. The Committee did not disclose the full cost paid directly by the committee (\$1,000) and did not disclose an in-kind contribution from Mr. Morse in the amount of \$4,542.42 and a corresponding expenditure representing consumption of the in-kind contribution.

9. The Committee contends that it did not disclose the full in-kind contribution received from Mr. Morse because it allocated the costs of the advertisement between Mr. Morse’s federal campaign and publicity for a book written by Mr. Morse, titled, “The Nazi Connection to Islamic Terrorism,” which covers the origins of Islamic terrorism through the present time.

10. The Commission concludes that the advertisement was campaign related because the advertisement focuses solely on his opponent and does not reference the book and that, as such, the Committee was required to disclose to the public all disbursements for the advertisement as expenditures or in-kind contributions. 2 U.S.C. § 434(b).

Disclaimer

11. Whenever a candidate for federal office, that candidate’s authorized committee, or its agents makes a disbursement for the purpose of financing any communication through any newspaper, the authorized committee must include a disclaimer that clearly states that the communication has been paid for by the authorized committee. 2 U.S.C. § 441d; 11 C.F.R. §§

110.11(a)(1), 110.11(b)(1). The disclaimer must be presented in a clear and conspicuous manner and, for printed communications, must be of a sufficient type size to be clearly readable, must be contained in a printed box set apart from the other contents of the communication, and must be printed with a reasonable degree of color contrast between the background and the printed statement. 11 C.F.R. § 110.11(c).

12. The advertisement run by the Respondents in the October 16, 2003, edition of the Globe contained a disclaimer, located below the content, that stated "Paid for by www.morseforcongress.com" and was in approximately 10 point, bold-faced, black font on a white background.

13. Although the disclaimer used black text on a white background, was clearly readable, and was set apart from the main content of the communication, it was not contained inside a printed box.

14. The Respondents contend that they did provide the text of the disclaimer to the Globe (although there was no discussion of a printed box), that the Globe prepared the disclaimer for them, and that the Respondents did not see a proof of the advertisement before publication.

Late-Filed Reports

15. The principal campaign committee for a candidate must file quarterly reports in both election and non-election years, disclosing contributions and expenditures for the period. 11 C.F.R. §§ 104.3(a)-(b), 104.5(a). In election years, the committee must also file pre-election reports no later than twelve days prior to any primary or general election, as well as a post-election report no more than thirty days after any general election. 11 C.F.R. § 104.5(a)(2).

16. As the principal committee for Mr. Morse, the Committee was required to file quarterly reports starting with the October 2003 Quarterly report, in addition to pre-general and post-general reports in 2004.

17. The Committee filed the 2004 July Quarterly Report 328 days late. The report contains \$107,839.27 in receipts and \$69,583.01 in disbursements.

18. The Committee filed the 2004 October Quarterly Report 547 days late. The report contains \$10,505.51 in receipts and \$19,821.62 in disbursements.

19. The Committee filed the 2004 12 Day Pre-General Report 541 days late. The report contains \$1,854.00 in receipts and \$10,500.00 in disbursements.

20. The Committee filed the 2004 30 Day Post-General Report 198 days late. The report contains \$13,696.69 in receipts and \$12,744.28 in disbursements.

21. The Committee filed the 2004 Year-End Report 139 days late. The report contains \$802.30 in receipts and no disbursements.

22. The Respondents contend that the reports at issue were filed in paper format between 1 and 26 days after the respective reporting deadlines, and that the reports were filed electronically by the Committee on the dates listed in the preceding paragraphs.

23. Once a committee exceeds \$50,000 in contributions or \$50,000 in expenditures in a calendar year, it is required to file all forms and reports in electronic format. 2 U.S.C. § 434(a)(11)(A); 11 C.F.R. § 104.18(a)(1). Once the electronic filing requirement is triggered, filing reports on paper does not satisfy the committee's reporting obligations. 11 C.F.R. § 104.18(a)(2). In the July 2004 reporting period, the Committee exceeded \$50,000 in both contributions and expenditures for the calendar year, and accordingly, was required to file electronically all subsequent reports and disclosures.

V. The Respondents failed to disclose Mr. Morse's disbursements from CME to the Globe as an in-kind contribution with a corresponding expenditure representing consumption of the in-kind contribution, in violation of 2 U.S.C. § 434(b) and 11 C.F.R. § 104.13.

VI. The Respondents failed to accurately disclose the amount of the disbursement the Committee made to the Globe for the advertisement, in violation of 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3.

VII. The Respondents failed to place the required disclaimer for the advertisement in a printed box, in violation of 2 U.S.C. § 441d(c) and 11 C.F.R. § 110.11(c).

VIII. The Respondents failed to timely file the 2004 July Quarterly, 2004 30 Day Post-General, 2004 October Quarterly, 2004 12 Day Pre-General, and 2004 Year-End Reports, in violation of 2 U.S.C. § 434(a) and 11 C.F.R. §§ 104.5 and 104.18(a).

IX. Respondents will pay a civil penalty to the Federal Election Commission in the amount of nine thousand dollars (\$9,000), pursuant to 2 U.S.C. § 437g(a)(5)(A). Further, Respondents will cease and desist from violating 2 U.S.C. §§ 434(a), 434(b) and 441d(c) and 11 C.F.R. §§ 104.1, 104.3, 104.5, 104.13, 110.11(c), and 104.18.

X. Respondents will amend the Committee's disclosure reports to accurately reflect the payments to the Globe in the amount of \$1,000.00 and the in-kind contribution from Mr. Morse, which consists of a contribution in the amount of \$4,542.42 and a corresponding expenditure in the same amount representing consumption of the in-kind contribution.

XI. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof

has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

XII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XIII. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XIV. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

~~Lawrence H. Norton~~ Thomasenia P. Duncan
General Counsel Acting General Counsel

BY: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

4/2/07
Date

FOR THE RESPONDENTS:

Charles H. Morse
Charles Morse
Treasurer

Feb. 1, 2007
Date